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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,115	07/14/2006	Donald H. Eason	USS-CollarClamp-USNP	3822
33549 7590 10/30/2009 SANTANGELO LAW OFFICES, P.C. 125 SOUTH HOWES, THIRD FLOOR FORT COLLINS, CO 80521			EXAMINER GARCIA, ERNESTO	
			ART UNIT 3679	PAPER NUMBER
			NOTIFICATION DATE 10/30/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/586,115	<b>Applicant(s)</b> EASON, DONALD H.	
	<b>Examiner</b> ERNESTO GARCIA	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 8-13, 19-23, 30, 31 and 42 is/are pending in the application.
- 4a) Of the above claim(s) 10, 19, 22, 23, 30 and 31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8, 9, 11-13, 20, 21 and 42 is/are rejected.
- 7) ☒ Claim(s) 9 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### *Restriction and Election of Species*

Claims 10, 19, 22, 23, 30, and 31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 17, 2009.

Regarding the withdrawal of claim 10, the changes to claim 1 no longer make the claim readable upon the elected species. In particular, the levered clamp 16, shown in Figure 1, is not partially integral with the compression sleeve element 2 as claimed. Note that the sleeve elements 2 are separated from the levered clamp 16 and thus not integral with the compression sleeve.

### *Drawings*

The drawings were received on July 17, 2009. These drawings are accepted. However, the drawings contain discrepancies.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "4" (Figure 2) and "21" (Figure 1) have both been used to designate both the same apertures.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "13" (Figure 3) and "14" (Figure 1) have both been used to designate both the same longitudinal axis. Further, note that one lead line is required per reference character. See 37 CFR 1.84(q).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "4" has been used to designate both an aperture on the larger elongated member 8 and a projection on the compression sleeve element 2 in Figure 2.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "2" has been used to designate both compression sleeve element with a first configuration (Fig. 7) and two compression halves (Figure 1).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character not mentioned in the description: "25" in Figure 1. Note that the only reference character "25" in the specification was

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deleted. Further, Figure 6 contains reference "23" which is not mentioned in the description either.

The drawings are objected to because the bracket associated with reference character 1 should be an arrow. 37 CFR 1.84(p)(1) states that no brackets are to be associated with reference characters. Further, it is unclear whether the bracket of reference character 1, as currently shown, includes "the first elongated member" 6.

Reference characters 16 and 19 in Figure 2 should only contain one lead line.

Reference character "17" points to the transverse fastener rather than the cam. Further, there should only be one lead line in reference character 17 to depict an eccentric cam and not "cams". The lead line of reference character 13 should be extended and contacting the longitudinal axis. Further, the cross-hatching of the first elongated member 6 is incorrect. Note that the wall is not cross-hatched instead the opening is cross-hatched. Note that openings are not to become cross-hatched. Further, larger elongated member 8 in Figure 3 requires cross-hatching. Reference character "3" in Figure 7 should contain a lead line to depict all the components as a whole. Reference character "3" is pointing to different components and should only point to one component. Further, it is unclear what the vertical line in each of the projections shown in cross-sectional view, Figure 3, represents. Note that there is a curved line as well in cross-section. Is projection a curved projection?

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure. The language should avoid using phrases, which can be implied, such as, "The inventive technology is" in line 1. Accordingly, the abstract is still objected.

The specification is objected for the following reasons:

on page 5, line 8, the description of reference character "21" is incorrect as part "21" does not point to a projection as described. Note that "21" is rather an aperture in Figure 1.

### ***Claim Objections***

Claims 1 and 9 are objected to because of the following informalities:  
regarding claim 1, "itself" in line 12 should be deleted; and,  
regarding claim 9, a comma should be inserted after "member" in line 3 and --, to said compression sleeve element-- should be inserted after "surface" in line 5 to the second reference of where the clearance is located. Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

### ***Claim Rejections - 35 USC § 112***

Claims 1-4, 8, 9, 11-13, 20, 21, and 42 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the levered clamp interacting with the compression sleeve element. Are the claims directed to an apparatus or a listing of parts thus a kit?

Claims 1-4, 8, 9, 11-13, 20, 21, and 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the metes and bounds of the claim is unclear. In particular, it is unclear whether the larger elongated member is part of the adjustable telescoping retention apparatus since lines 4-5 inferentially recites that the compression sleeve element is "adapted to at least partially surround ... a second portion of a larger elongated member", which indicates that the larger elongated member is not claimed. However, the claim positive recites the larger elongated member since the limitations "said relative motion obstruction element itself having at least one hole established in said larger elongated member" and "at least one projection projecting ... through said at least one hole", in lines 12-15. Accordingly, the larger elongated member is required for the claim to be valid. Note that this is a limitation that requires the larger elongated member since the hole is part of the elongated member and the projection is required to pass through the one hole. Obviously, the elongated member is required to be claimed for there to be at least one hole.

Further, the recitation "said relative motion obstruction element itself having at least one hole established in said larger elongated member" in lines 12-13 is misdescriptive and/or inaccurate since the hole cannot be on both the obstruction



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element and yet be "established" in the larger elongated member 8. According to Figure 1, only the larger elongated member has a hole 21 and not the relative motion obstruction element, what ever physical part that is? The drawings rather show the obstruction element rather being comprised of the hole in the larger elongated member and the projection in the compression sleeve.

The recitation "said levered clamp established" in line 21 makes unclear how the levered clamp is actually established? Further, how does the recitation "upon activation" in line 22 further limit the retention apparatus? Applicant should note that patentability is based on structure and not how one later activates the retention apparatus in the future or how the clamp operates. It should also be noted that the recitation "upon activation" does not mean that the retention apparatus has actually been activated and thus required to be activated. If applicant is concerned with the way the clamp operates, applicant should consider filing for a method of operation.

Regarding claim 2, the recitation "where said third portion of said first elongated member has a first longitudinal axis" in lines 5-6 makes unclear how the retention apparatus is further limited when the first elongated member is not claim as part of the retention apparatus.

Regarding claim 11, the metes and bounds of the claim is unclear. In particular, how does further limiting the third portion of the first elongated member further limit the

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retention apparatus especially when the first elongated member is not claimed. See remarks at page 18, which indicate that "the members themselves are not part of claim 1". For purposes of this Office action, the examiner has considered the first elongated member to be part of the retention apparatus for the claim to be valid.

Regarding claim 13, the metes and bounds of the claim is unclear. In particular, how does further limiting the first elongate member and the larger elongated member being hollow further limit the retention apparatus especially when the first elongated member and the larger elongated member are presumably not claimed as remarked by the applicant. See remarks at page 18, which indicate that "the members themselves are not part of claim 1". For purposes of this Office action, the examiner has considered both the first elongated member and the larger elongated member to be part of the retention apparatus for the claim to be valid.

Regarding claim 20, the recitation "said larger elongated member compression surface and said first elongated member compression surface each directly contact one of said elongated members" in lines 2-4, is misdescriptive and/or inaccurate especially since the surfaces 11, 12, which are part of the compression sleeve, each do not contact either the larger elongated member or the first elongated member in the alternative. Note that the formal Figure 3 rather clearly shows the surface 11 in contact with the first elongated member and the surface 12 in contact with the larger elongated member. It should be noted that the informal drawings provided did not enable the

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examiner to determine the validity of this feature and the claim was assumed to be correct.

Further, the recitation "each directly contact one of said elongated members" makes unclear how the telescoping member is further limited when both the elongated members are not part of claim 1 as remarked at page 18. For purposes of this Office action, the examiner has considered the first elongated member to be part of the retention apparatus for the claim to be valid.

Regarding claim 21, the metes and bound of the claim is unclear. In particular this claim is redundant since the retention apparatus of claim 1, as best understood, already includes the larger elongated member. Further, how does reciting the elongated members further limit the retention apparatus of claim 1? Note that there is no structural relationship between the elongated members and the features of the retention apparatus.

Regarding claim 42, the recitation "said levered clamp force said first elongated member compression surface against a surface on said first elongated member" in lines 2-3 make unclear how the forcing the first compression surface against a component not claimed, i.e., the first elongated member, further limits the retention apparatus. Note that the claim cannot positively make reference to a component not claimed.

Regarding claims 3, 4, 8, 9, 12, and 20, the claims depend from claim 1 and therefore are indefinite.

***Claim Rejections - 35 USC § 102***

Claims 1, 11, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by McConnell, 4,576,501.

Regarding claim 1, as best understood, McConnell teaches, in Figure 2, an adjustable telescoping retention apparatus comprising a larger elongated member **12**, a compression sleeve element **38** and a levered clamp **18**. The compression sleeve element 38 has a first elongated member compression surface (inner diameter surface) and a larger elongated member compression surface (the outer diameter surface). At least one hole (the dimple; col. 3, lines 32-36) is established in the larger elongated member **12** and at least one projection **40** projects inwardly from the compression sleeve element 38 and through the at least one hole (the dimple).

Regarding claim 11, the retention apparatus further comprises a first elongated member **14**. A third portion of the first elongated member **14** has an outer surface. McConnell sizes the outer surface.

Regarding claim 21, as best understood, the retention apparatus further comprises a first elongated member **14**.

Claims 1-4, 11-13, 21, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Hampel, 4,397,088.

Regarding claim 1, Hampel discloses, in Figure 2, an adjustable telescoping member retention apparatus comprising a larger elongated member **18**, a compression sleeve element **42, 44** and a levered clamp **52** (note that the head of the screws 48 provides for levering by definition and thus there is levering in the clamp). The compression sleeve element **42** has a first elongated member compression surface A1 (see marked-up attachment provided in the last Office action) and a larger elongated member compression surface A2). At least one hole **34, 36** is established in the larger elongated member **18** and at least one projection **46** projects inwardly from the compression sleeve element **42, 44** and through the at least one hole (the dimple).

Regarding claim 2, the compression sleeve element **42, 44** is separated along at least one split from a first elongated member proximate edge of the compression sleeve element to a larger elongated member proximate edge of the compression sleeve element. The third portion of the first elongated member has a first longitudinal axis. At least a fourth portion of the larger elongated member has a second longitudinal axis. The compression sleeve element is perpendicularly removable relative to the second

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longitudinal axis from the first elongated member and the larger elongated member upon deactivation of and effective disengagement of the levered clamp **52**.

Regarding claim 3, the at least one split is two splits.

Regarding claim 4, each of the two splits is parallel to the first longitudinal axis.

Regarding claim 11, the third portion of the first elongated member **20** has an outer surface sized to fit substantially against an inner surface of the at least a fourth portion of the larger elongated member **18**.

Regarding claim 12, the compression sleeve element **42, 44** is radially displaceable and radially removable.

Regarding claim 13, the first elongated member **20** and the larger elongated member **18** are hollow.

Regarding claim 20, as best understood, the larger elongated member compression surface and the first elongated compression surface directly contact the elongated members, respectively.

Regarding claim 21, the retention apparatus already comprises the larger elongated member. Hampel further teaches the retention apparatus further comprises a first elongated member.

Regarding claim 42, the levered clamp 52 forces the first elongated member compression surface against a surface on a first elongated member **20** that is not within the larger elongated member **18**.

***Claim Rejections - 35 USC § 103***

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over McConnell, 4,576,501.

Regarding claim 13, McConnell, as discussed, discloses the larger elongated member being hollow. Further, McConnell discloses the retention apparatus further having a first elongated member 14. However, the first elongated member is not hollow. Applicant is reminded that it is well known in the art of telescoping members that both the first elongated member and the larger elongated member are usually hollow to reduce the material used to make the member thus being cost effective. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the first elongated member to be hollow to reduce the material used to make the first member thus saving money.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hampel, 4,397,088, in view of Chen, 6,557,878.

Regarding claim 8, Hampel, as discussed, fails to disclose levered clamp having an eccentric cam. Chen teaches, between Figures 1 and 3, a compression enhancement element being a levered clamp 50 having an eccentric cam 60 to compress a sleeve in the alternative rather than using a head of a fastener. Therefore, as taught by Chen, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the enhancement element into a clamp having an eccentric cam to compress the sleeve of Hampel.

### ***Allowable Subject Matter***

Claims 9 and 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 9, assuming, arguendo, the larger elongated member is claimed in combination with the adjustable telescoping member retention apparatus, then the



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prior art of record does not disclose or suggest an adjustable telescoping member retention apparatus comprising a compression sleeve element being shaped to provide a clearance from the larger elongated member, between a first elongated member compression surface and a larger elongated member compression surface, to the compression sleeve element. The closest prior art, Hampel, 4,397,088, teaches, no clearance. Rather, the compression member contains a shoulder thus providing for two surfaces separated by the shoulder; and,

regarding claim 20, assuming, arguendo, the larger elongated member and the first elongated member are claimed in combination with the adjustable telescoping member retention apparatus and as best understood, then the prior art of record does not disclose or suggest an adjustable telescoping member retention apparatus comprising a compression sleeve element having a larger elongated member compression surface and a first elongated compression surface each directly contacting the larger elongated member and the first elongated member, respectively (lines 2-4), and the compression sleeve element having at least one projection projecting inwardly from the compression sleeve element (lines 14-15).

### ***Response to Arguments***

Applicant's arguments filed July 17, 2009 have been fully considered but they are not persuasive.

With respect to Hampel, applicant argues that the reference does not show a levered clamp. In response, it should be noted that the recitation levered clamp has been given its broadest reasonable interpretation as the claim does not require there be a lever. The screws in Hampel constitute a lever by definition since one has to apply torque to turn them. Applicant further argues that nothing in Hampel forces a projection against a surface of the first elongated member. In response, the claim does not require "the projection against a surface of the first elongated member. Further, applicant has remarked that the first elongated member is not even claimed as part of the apparatus. So how can the projection be against the surface of the first elongated member when the same first elongated member is not claimed?

### ***Conclusion***

Applicant's amendment necessitated the new grounds of rejection presented in this Office action. In particular, the recitations "a relative motion obstruction element ... through said at least one hole" in claim 1, lines 10-15, and "a levered clamp ... said lever clamp established so that, upon activation, said levered clamp forces:" in claim 1, lines 19-22, necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30AM-6:00PM. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/E. G./

Examiner, Art Unit 3679

October 28, 2009

/Daniel P. Stodola/  
Supervisory Patent Examiner, Art Unit 3679